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Message from the President of the United States, transmitting a communication from the Secretary of the Interior, submitting an agreement with certain Indians for the cession of lands in Oklahoma Territory.

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior, submitting an agreement with certain Indians for the cession of lands in Oklahoma Territory.

JANUARY 6, 1892.—Read, referred to the Committee on Indian Affairs, and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith, for the consideration of Congress, a communication of the 4th instant from the Secretary of the Interior, accompanied by an agreement concluded by and between the Cherokee commission and the Wichita and affiliated bands of Indians in the Territory of Oklahoma for the cession of certain lands, and for other purposes.

BENJ. HARRISON.

EXECUTIVE MANSION, *January 6, 1892.*

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1892.

The PRESIDENT:

I have the honor to submit herewith an agreement made and entered into by and between the Cherokee commission and the Wichita and affiliated bands of Indians in the Territory of Oklahoma, and also a report of the said commission transmitting the agreement.

The accompanying report of the 26th of September, 1891, from the Commissioner of Indian Affairs, contains in brief the provisions of the agreement, and states that it appears to be in proper form and properly executed. He calls attention to the fact that no provision is contained in the agreement as to the manner in which the purchase price of the lands shall be invested or paid, and makes provision for the same in the accompanying draft of a bill carrying into effect the agreement. He also expresses the opinion that the Choctaws and Chickasaws will no doubt assert their claim to compensation for these lands, as they did to those ceded by the Cheyennes and Arapahoes.

In my judgment the Choctaws and Chickasaws have no legal or equitable right for compensation for any of the lands covered by this agreement, and hence no provision is made therefor in the draft of bill herewith presented.

I also submit herewith copy of communication of 15th December, 1891, from the honorable Assistant Attorney-General for this Department, containing his views as to the disposition of the lands acquired by the agreement, and presenting the draft of a section which has been embodied in the bill submitted.

I concur in the views expressed by the Assistant Attorney-General and the Commissioner of Indian Affairs, except as above stated, and have the honor to request that the matter be presented for the early and favorable consideration of Congress.

I have the honor to be, very respectfully, your obedient servant,
JOHN W. NOBLE,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, September 26, 1891.

SIR: I have the honor to acknowledge the receipt of your communication, dated June 22, 1891, with which you transmit a report of the Cherokee commission, dated June 5, 1891, submitting an agreement with the Wichita and affiliated bands of Indians in Oklahoma for the cession of the reservation or tract of country on which they reside, possess, and claim to own.

By the first article of the agreement the said Wichita and affiliated bands of Indians cede, convey, transfer, and relinquish forever and absolutely, without any reservation whatever, all their claim, title, and interest of every kind and character in and to the lands embraced in the following-described tract of country:

Commencing at a point in the middle of the main channel of the Washita River, where the ninety-eighth meridian of west longitude crosses the same; thence up the middle of the main channel of said river to the line of $98^{\circ} 40'$ west longitude; thence along said line of $98^{\circ} 40'$ west longitude due north to the middle of the channel of the main Canadian River; thence down the middle of the said Canadian River to where it crosses the ninety-eighth meridian; thence due south to the place of beginning.

By the second article the United States agrees that out of said tract of country there shall be allotted to each and every member of said Wichita and affiliated bands of Indians, native and adopted, 160 acres of land in manner and form as follows: Said tract of country shall be by the United States classified into grazing and grain-growing lands, and when so classified each of said Indians shall be required to take at least one-half in area of his or her allotment in grazing land. Each and every member of the Wichita and affiliated bands over the age of 18 years is to have the right to select for himself or herself 160 acres of land, and the father, or if he be dead, the mother, if members of said tribes or bands, is to have the right to select a like amount of land for each of his or her children under 18 years of age, and the Commissioner of Indian Affairs, or some one appointed by him for the purpose, is to select a like amount for each orphan child belonging to said tribes or bands under 18 years of age. These allotments are to be subject to the provision as to classification into grazing and grain-growing lands. And it is further agreed that no person shall have the right to make a selection of any tract of country "that is now used or occupied, or that has been or may hereafter be set apart for military, agency, school, school-farm, religious, townsite, or other public uses, or in sections 16 and 36 in each Congressional township," except where any Indian has made improvements or occupies any part of sections 16 or 36.

The third article provides that the allotments shall be selected within ninety days from the ratification of the agreement by Congress, provided that the Secretary of the Interior may, in his discretion, extend the time, and if any Indian shall fail or refuse to make his selection of land in such time, then the allotting agent in charge of the work shall within the next thirty days after such time make allotments to such Indians, and they shall have the same force and effect as if the selections had been made by the Indians themselves.

The fourth article provides that when the allotments have been selected and approved by the Secretary of the Interior, the title shall be held in trust for the allottees, respectively, for the period of twenty-five years in the manner and extent provided for in the act of February 8, 1887 (24 Stats., 388).

By the fifth article of the agreement it is provided that the question as to what sum of money, if any, shall be paid to the Indians for the surplus lands remaining within the reservation after their allotments have been made, shall be submitted to the Congress of the United States, the decision of that body thereon to be final and binding on said Indians, provided, that if any sum of money shall be allowed by Congress for surplus lands it shall be subject to a reduction for each allotment of land that may be taken in excess of 1,060 at the price per acre, if any, that may be allowed by Congress.

By the sixth article it is agreed that there shall be reserved for said Indians the right to prefer against the United States any and every claim that they may believe they have the right to prefer, save and except any claim to the tract of country described in the first article of the agreement.

By the seventh article it is agreed that wherever any religious society or other organization is occupying any portion of any reservation for religious or educational work among the Indians the amount so occupied may be confirmed to said society or organization, not to exceed 160 acres of land to any one society or organization, so long as the same shall be so occupied and used.

The eighth article provides that the agreement shall take effect whenever it shall be ratified by the Congress of the United States.

The commission reports that the agreement has been signed by 152 male adult Indians, embracing all the chiefs and headmen on the reservation. The commissioners state that the adult population of the several bands is 227.

The title of the Wichitas and affiliated bands to the reservation in question is set out on page 38 of the printed letter of instructions to the Cherokee commission, submitted to the Department on the 9th of May, 1889.

In 1859 Superintendent Rector submitted a sketch showing the reservation selected for the Wichitas and Kichies, immediately south of 35° 30' north latitude, and immediately west of the ninety-eighth degree of west longitude, being 13½ miles in length and 9 miles in width and containing 69,120 acres.

He also submitted a sketch showing the reservation selected for the Caddoes, Delawares, and Texas Indians, lying a few miles southwest of the selection made for the Wichitas, and being 19 miles in length and 7 miles in width, containing by calculation 85,120 acres. These two tracts were almost wholly within the Choctaw leased tract subsequently ceded by the Choctaws and Chickasaws under treaty of 1866.

No further steps appear to have been taken looking to the establishment of these reservations until 1872. In October of that year, Francis

A. Walker, then Commissioner of Indian Affairs, entered into an agreement with certain chiefs, headmen, and members of the Wichita and affiliated bands of Indians, whereby the reservation which is now the subject of cession was to be set apart for these Indians as a home. Said agreement was never ratified by Congress, but the Indians have remained upon the lands described in the said unratified agreement.

By executive order of August 10, 1869, the same lands had been included within the reservation established for the Cheyenne and Arapaho Indians, who ceded all right and title therein by an agreement concluded in October, 1890, and ratified by the act of March 3, 1891 (26 Stats., 1022). The Cheyennes and Arapahoes, however, never occupied this tract. They were paid a fixed sum for the cession of all their claims to lands in the Indian Territory, and it is impossible to tell whether the value of these lands had any effect in fixing the amount to be paid.

They were also included in the lands ceded by the Choctaw and Chickasaw Nation of Indians by article 3 of the treaty between the United States and said Choctaw and Chickasaw Nation of Indians, which was concluded April 28, 1866 (14 Stats., 769). They were not included in the 2,393,160 acres in payment for which an appropriation was made by section 15 of the act of March 3, 1891 (26 Stats., 1022), but their status is the same.

The reservation contains 743,610 acres, of which the commissioners estimate that 169,600 acres will be required for allotments, leaving available for white settlement 574,010 acres.

The commissioners state that they offered these Indians the sum of \$286,000, or, about 50 cents per acre for the surplus lands. The Indians refused this, claiming that they were entitled to \$1.25 per acre. As they could not agree, the matter was compromised by the Indians allowing the price to be fixed by Congress.

While the Wichitas have had no well defined tenure in these lands, and may in fact be said to have occupied them by sufferance, nevertheless, under the general allotment act of February 8, 1887, as construed by the Attorney-General, no part of these lands could be taken from them without their consent, they having been in effect set apart for their use by Executive action and recognized by Congressional appropriations.

The commissioners report that the greater part of the lands which will be left unallotted is of doubtful value, or of no value for farming purposes, and not useful even for grazing where the holdings are limited to a quarter section.

In view of the foregoing facts, I am somewhat in doubt as to the value which should be placed upon the lands.

In office report of September 13, 1890, upon the memorial of the Choctaw Nation relative to the claim of that nation for compensation for the relinquishment of its right in certain lands west of the ninety-eighth degree of longitude in the Indian Territory, ceded by the third article of the treaty of 1866 (14 Stats., 769), the following opinion was expressed:

So far as this office is aware, nothing is contained in the instructions given to the commission appointed to make those negotiations which would authorize or warrant it in negotiating with the Choctaws and Chickasaws covering this claim.

This may account for its direct presentation to Congress.

The United States ought not to be expected to pay for the land at the present time more than its fair valuation, considering its status. It has located other Indians upon said lands—the Kiowas, Comanches, Apaches, Wichitas and affiliated bands, and the Cheyennes and Arapahoes. Negotiations will no doubt be made with these Indians for the relinquishment of their right, title, and interest in and to the lands

occupied by them, except so much as may be found necessary to be continued in a state of reservation for allotment to or for homes for said Indians. To pay full value of the relinquished land to these occupying Indians, and also to pay full value to the Choctaws and Chickasaws in adjustment of their claim for release of the trust claimed by them to be upon the land, will be doing more than equity demands of the United States in settlement of these claims.

While there are clearly no words of limitation in the treaty of 1866 as to the use to which the ceded lands should be put by the United States, the history of the negotiation preceding and resulting in that treaty, and the subsequent treatment of the subject, quite clearly indicate that the Choctaws and Chickasaws have good ground for claiming that they understood that the lands were to be used for the location of other Indians and freedmen thereon. If they have, as seems to be the case, an equitable claim, it is for Congress to determine what shall be the measure of allowance to be made for its adjustment in order to clear the lands of the incumbrance.

If anything is to be allowed, the settlement made with the Creeks and the Seminoles in 1889, of similar claims, may assist in reaching a conclusion on this case.

Then followed a statement of the basis of adjustment made with the Creeks and Seminoles, after which that report continued:

Applying, therefore, to the whole quantity of that tract so occupied by other Indians the rate allowed to the Creeks and Seminoles for land similarly conditioned, the total sum will be, for 6,201,633 acres at \$1.05 per acre, \$6,511,714.65.

From this sum should be deducted whatever portion of the \$800,000 paid under the treaty of 1855 may be determined to have been the consideration for the lease of said land for permanent purposes then made to the United States. There should also be deducted the \$300,000 allowed by the treaty of 1866 for the cession of said "leased district" so far as the sum has been paid to or disbursed for the interest of the Indians or their freedmen.

(See H. R. 3147, Fifty-first Congress, first session.)

The appropriation made by Congress was, however, upon the basis of \$1.25 per acre to the Choctaws and Chickasaws.

The Choctaws and Chickasaws will no doubt assert their claim to compensation for these lands, as they did to those ceded by the Cheyenne and Arapahoes.

In all of the cessions of lands in the Indian Territory occupied by the Indians, recently made, two prices have been paid, one to the tribe originally ceding the same for Indian occupation and the other to the Indian occupants.

In their report submitting the agreement with the Cheyennes and Arapahoes, the Cherokee commissioners stated that the aggregate cost to the Government of all the surplus lands secured was about 55 cents per acre, that being the amount paid to the occupying Indians.

The interest of the Wichitas in the lands ceded by them is certainly as great as that possessed by the Iowas, Shawnees, and Pottawatomies.

The amount offered by the commission was 5 cents per acre less than this average price. Certainly no less sum should be fixed upon, and probably that amount is as just and equitable as can be determined upon from the information now at hand. The matter will doubtless receive careful consideration from the committees of Congress, and no doubt ample justice will be, as it should be, done the Indians.

The agreement appears to be in proper form and to be properly executed. No provision is contained in the agreement as to the manner in which the purchase price of the lands shall be invested or paid, although the commissioners state that they proposed to pay the Indians \$53,000 in cash—\$50 to each person; \$53,000 to be paid out to or for them under the direction of the Commissioner of Indian Affairs and the remaining \$180,000 of the amount proposed to be paid to be retained in the Treasury of the United States and to bear 4 per cent interest, the interest to be expended each year in the discretion of the Commissioner of Indian Affairs.

I do not think that more than \$50 each should be paid to them. The remainder of whatever sum may be appropriated should be invested, the interest to be expended for their benefit under the direction of this office or the Secretary of the Interior, as contemplated by the commission. The interest should, I think, be at the rate of 5 per cent per annum, which is the amount usually paid on moneys appropriated for Indian tribes.

I have prepared the draft of a bill providing for carrying into effect the provisions of the agreement and the suggestions herein made as to the amount and disposition of the compensation to be allowed the Indians for their surplus lands.

I have also prepared copies of all the papers for transmission to Congress at the beginning of the next session.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

OFFICE CHEROKEE COMMISSION,
Anadarko, Ind. T., June 5, 1891.

SIR: I have the honor to transmit herewith the report of the Cherokee commission to the President concerning its negotiations with the Wichita and affiliated bands of Indians in the Indian Territory.

We go from here immediately to the Kickapoo country. Should occasion arise to communicate with us, our post-office address, until further notice, will be Wellston, Oklahoma Territory.

Very respectfully,

DAVID H. JEROME,
Chairman Cherokee Commission.

Hon. JOHN W. NOBLE,
Secretary of the Interior, Washington, D. C.

OFFICE CHEROKEE COMMISSION,
Anadarko, Ind. T., June 5, 1891.

SIR: We now have the honor to report to you, in compliance with the law, the successful termination of negotiations with the Wichita and affiliated bands of Indians in the Indian Territory, and inclose herewith the agreement entered into with them.

The reservation or tract of country on which they reside and which they, in Indian fashion, possess and claim to own, is accurately described in the agreement, and contains 743,610 acres.

In the agreement we provide for 1,060 allotments to the Indians of 160 acres each, to make which will require 169,600 acres, leaving available for white settlement 574,010 acres, or 3,600 homesteads of one-quarter section each.

These Indians, and especially the Wichitas, make claim against the United States for fabulous sums of money due them for lands alleged to have been taken from them and for property destroyed by agents or employes of the Government as far back as the memory of man runs.

They seem to be, and are, tenacious in making these claims, and as it is beyond the jurisdiction of this commission to settle or even consider such matters, the right to prefer such claims against the Government is reserved to them in the agreement. The other conditions of the agree-

ment, save one which will be noted presently, are those usually found in agreements of this character.

As is shown by Agent Adams's certificate attached to the agreement, the adult male population of said bands of Indians is 227. We secured the signatures of 152, and in this number is embraced every chief and headman on the reservation.

Every Indian present at the council at the time of signing did sign, and we are assured by all the chiefs, headmen, and others that every one entitled to sign would do so if present; but some were absent because of the swollen creeks and rivers, resulting from the almost unprecedented rains of the last few days.

Every acre of this reservation is embraced in the cession made last November to the United States by the Cheyennes and Arapahoes, and also embraced in the territory described in the Indian appropriation bill of the recent session of Congress, and for which Congress in that bill appropriated to be paid to the Choctaws and Chickasaws, \$1.25 per acre.

In the beginning of our negotiations with the Wichitas and affiliated bands of Indians they seemed to be, and so declared themselves to be, utterly opposed to taking lands in severalty, or agreeing to the settlement of whites among them. After many days of talk with them this difficulty was finally removed.

Then the question of compensation for the surplus lands arose. The Indians had a lawyer, Mr. Luther H. Pike of Washington, D. C., present at the councils. They seemed well advised that the Government had given \$1.25 an acre for Oklahoma, and that Congress had recently appropriated a sum of money, understood to be equivalent to \$1.25 an acre, to be paid to the Choctaws and Chickasaws for a supposed interest or equity they held in these same lands.

If they, the Choctaws and Chickasaws, were entitled to that much money per acre for their alleged interest, the Wichitas zealously maintained that they, who had possessed this land and much more, for more than thirty years, should at least have the same amount paid them.

This commission could not and would not willingly agree to any such price. Their title is possessory only—they do not have a treaty or even an agreement with the United States, that it shall be their country.

The United States put them here, remnants of half a dozen or more tribes, has protected them in their possession and given to them as a gratuity rations and beef and clothing, agricultural implements, etc., amounting in the aggregate to more than a million dollars. But notwithstanding all this, for the purpose of placing these Indians in the new condition they now agree to assume, upon a possibly self-sustaining basis, we propose to pay to them \$286,000, as follows: \$53,000, or \$50 to each person, in cash; \$53,000, or \$50 to each person, to be paid out to or for them under the direction of the Commissioner of Indian Affairs, and the remainder, \$180,000, to be retained in the Treasury of the United States and to bear 4 per cent interest, the interest to be expended each year in the discretion of the Commissioner of Indian Affairs.

Their first query was: "How much an acre is that?" Of course we told them "about 50 cents per acre." This proposition they refused even to consider, but demanded \$1.25 an acre.

There seemed to be no possibility of agreement on the price. The Indians, finally, proposed that our proposition be withdrawn, and they withdrew theirs, and leave the question to Congress, and they would accept whatever Congress might conclude to give them, whether more or less than we offered them.

Acting under the authority of Congress, as we are, it was difficult, in fact impossible, to convince an Indian that we should be unwilling to commit a matter to Congress that they were willing to so commit. Therefore that provision is in the contract. It had to be so or negotiation fail entirely.

This provision, of course, leaves the agreement to be completed, or determined by Congress, but requires no negotiation with the Indians, to have them accept what Congress may determine upon—for they agree to that in advance.

This commission was induced to offer them what it did after mature consideration of every question that ought to affect it. The price offered amounts to about \$270 to each member of all the tribes or bands interested. That is more than \$1,000 to an average sized family of four persons. Such a sum of money, with the allotments provided for, sensibly applied, would, without any doubt whatever, put every Indian family upon a safe footing and make his prosperity certain, if prosperity can be assured them. More than that, in the opinion of this commission, would be harmful rather than beneficial.

Another circumstance well worthy of consideration in this connection, is the quantity and quality of the land itself.

It will no doubt happen, and the Government is interested in its being so, that the Indian, as far as he may, will select the best of the land, leaving the poorer land only available to white settlement. There is some very good upland—the Washita Valley and the valleys of some half dozen of the creeks are very good—probably some more than enough to allot to the Indians good land. The greater part by far of the residue of the land is of doubtful value, or no value, for farming purposes, and not useful even for grazing, where the holdings are limited to a quarter section.

The very doubtful character of their title, if any they have, also entered into consideration, and notwithstanding its shadowy character the Commission concluded to deal with them as if they were at least entitled to continued possession. The offer we made was, therefore, about the same as was accepted by tribes even better situated as to title, and which was approved by Congress at the last session.

If the question was to be submitted to Congress the commission, in the presence of their lawyer, Mr. Pike, asked them if they understood that Congress could under the agreement refuse to give them anything, and they said they so understood it, and would trust to Congress entirely.

Therefore, we recommended nothing as to price, but have submitted the foregoing observations in justification of our own determination in the matter.

After the agreement was signed, we told the leading men of the tribes or bands, that if the Indians should, before Congress shall meet in December next, conclude to accept the price we had offered them, upon sufficient notice, we would return to them and make a supplemental agreement accordingly, but from what we now know we have no hope of that being agreed to.

We go from here immediately to the Kickapoo country.

We have the honor to be, very respectfully, your obedient servants,

DAVID H. JEROME,
ALFRED M. WILSON,
WARREN G. SAYRE,
Cherokee Commission.

The PRESIDENT.

Articles of agreement made and entered into at Anadarko in the Indian Territory, on the 4th day of June, A. D. 1891, by and between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, commissioners on the part of the United States, and the Wichita and affiliated bands of Indians in the Indian Territory.

ARTICLE I.

The said Wichita and affiliated bands of Indians in the Indian Territory hereby cede, convey, transfer, relinquish forever and absolutely, without any reservation whatever, all their claim, title, and interest, of every kind and character, in and to the lands embraced in the following described tract of country in the Indian Territory, to wit:

Commencing at a point in the middle of the main channel of the Washita River where the ninety-eighth meridian of west longitude crosses the same, thence up the middle of the main channel of said river to the line of $98^{\circ} 40'$ west longitude; thence on said line of $98^{\circ} 40'$ due north to the middle of the channel of the main Canadian River; thence down the middle of said main Canadian River to where it crosses the ninety-eighth meridian; thence due south to the place of beginning.

ARTICLE II.

In consideration of the cession recited in the foregoing article the United States agrees that out of said tract of country there shall be allotted to each and every member of said Wichita and affiliated bands of Indians in the Indian Territory, native and adopted, one hundred and sixty acres of land, in the manner and form as follows:

Said tract of country shall be by the United States classified into grazing and grain-growing land, and when so classified each of said Indians shall be required to take at least one-half in area of his or her allotment in grazing land. Subject to the foregoing and other restrictions hereinafter recited, each and every member of said Wichita and affiliated bands of Indians, in the Indian Territory, over the age of eighteen years, shall have the right to select, for himself or herself, one hundred and sixty acres of land to be held and owned in severalty, but to conform to legal surveys in boundary as nearly as practicable; and that the father, or, if he be dead, the mother (if members of said tribe or bands of Indians), shall have the right to select a like amount of land under the same restrictions for each of his or her children under the age of eighteen years; and that the Commissioner of Indian Affairs, or some one appointed by him for the purpose, shall select a like amount of land, under the same restrictions, for each orphan child belonging to said tribe or bands of Indians under the age of eighteen years.

It is hereby further expressly agreed that no person shall have the right to make his or her selection of land in any part of said tract of country that is now used or occupied, or that has been or may hereafter be set apart for military, agency, school, school farm, religious, town site, or other public uses, or in sections sixteen (16) and thirty-six (36) in each Congressional township, except in cases where any member of said Wichita and affiliated bands of Indians has heretofore made improvements upon and now occupies and uses a part of said sections sixteen (16) and thirty-six (36), such Indian may make his or her selection, according to the legal subdivisions, so as to include his or her improvements. It is further agreed that wherever, in said tract of country, any one of said Indians has made improvements and now uses and occupies the land embracing such improvements, such Indian shall have the undisputed right to make his or her selection, to conform to legal subdivisions, however, so as to include such improvements, without reference to the classification of land hereinbefore recited.

ARTICLE III.

All allotments hereunder shall be selected within ninety days from the ratification of this agreement by Congress of the United States provided the Secretary of the Interior, in his discretion, may extend the time for making such selection; and should any Indian entitled to allotments hereunder fail or refuse to make his or her selection of land in such time, then the allotting agent in charge of the work of making such allotments shall, within the next thirty (30) days after said time, make allotments to such Indians, which shall have the same force and effect as if the selections were made by the Indians themselves.

ARTICLE IV.

When said allotments of land shall have been selected and taken as aforesaid, and approved by the Secretary of the Interior, the titles thereto shall be held in trust for the allottees, respectively, for a period of twenty-five (25) years, in the manner

and to the extent provided for in the act of Congress, entitled "An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," approved February 8, 1887; and at the expiration of twenty-five (25) years the title thereto shall be conveyed in fee simple to the the allottees, or their heirs, free from all incumbrances.

ARTICLE V.

In addition to the allotments above provided for, and the other benefits to be received under the preceding articles, said Wichita and affiliated bands of Indians claim and insist that further compensation, in money, should be made to them by the United States for their possessory right in and to the lands above described in excess of so much thereof as may be required for their said allotments. Therefore it is further agreed that the question as to what sum of money, if any, shall be paid to said Indians for such surplus lands shall be submitted to the Congress of the United States, the decision of Congress thereon to be final and binding upon said Indians; provided, if any sum of money shall be allowed by Congress for surplus lands, it shall be subject to a reduction for each allotment of land that may be taken in excess of one thousand and sixty (1,060) at the price per acre, if any, that may be allowed by Congress.

ARTICLE VI.

It is further agreed that there shall be reserved to said Indians the right to prefer against the United States any and every claim that they may believe they have the right to prefer, save and except any claim to the tract of country described in the first article of this agreement.

ARTICLE VII.

It is hereby further agreed that wherever in this reservation any religious society or other organization is now occupying any portion of said reservation for religious or educational work among the Indians, the land so occupied may be allotted and confirmed to such society or organization, not, however, to exceed one hundred and sixty (160) acres of land to any one society or organization, so long as the same shall be so occupied and used, and such land shall not be subject to homestead entry.

ARTICLE VIII.

This agreement shall have effect whenever it shall be ratified by the Congress of the United States.

In witness whereof the said commissioners on the part of the United States have hereunto set their hands and the undersigned members of the said Wichita and affiliated bands of Indians have set their hands the day and year first above written.

DAVID H. JEROME,
ALFRED M. WILSON,
WARREN G. SAYRE,
U. S. Commissioners.

- | | |
|--------------------------------------|---|
| 1. Tso-di-ar-co, his x mark. | 20. George Parton, his x mark. |
| 2. Niastor, his x mark. | 21. Frank Williams, his x mark. |
| 3. Ke-wits-id-dee, his x mark. | 22. Joe Bry, his x mark. |
| 4. Towaconie Jim, his x mark. | 23. Charlie Key, his x mark. |
| 5. Kaw-wid-dy-huntis, his x mark. | 24. Sah-be-dun-ko, his x mark. |
| 6. Laurie Tatum, his x mark. | 25. Sam Parton, his x mark. |
| 7. Caddo Jack, his x mark. | 26. Kor-hake-us-cor, his x mark. |
| 8. White Bread, his x mark. | 27. Hose-quas-ti-i-a-ke-ah, his x mark. |
| 9. Kah-noos-ty, his x mark. | 28. Keechi Sam, his x mark. |
| 10. Bull Wilson, his x mark. | 29. Jonathan Richards, his x mark. |
| 11. Jack Harry, his x mark. | 30. Shanklin, his x mark. |
| 12. Jim Babb, his x mark. | 31. Cho-cof-py, his x mark. |
| 13. Kah-de-wah, his x mark. | 32. Johnson, his x mark. |
| 14. Chi-ox-se-os, his x mark. | 33. Wates-koke, his x mark. |
| 15. Tuddy-hin-a-dow-nos, his x mark. | 34. Es-kay-wicks, his x mark. |
| 16. John Inkanish, his x mark. | 35. Skaw-ace-or, his x mark. |
| 17. Sargeant Tom, his x mark. | 36. Joe Pooler, his x mark. |
| 18. Enoch Hoag, his x mark. | 37. Sam Hazen, his x mark. |
| 19. Bob Penn, his x mark. | 38. Charlie, his x mark. |

39. Frank Bigman, his x mark.
40. Down-in, his x mark.
41. Martin Luther, his x mark.
42. Little Dutchman, his x mark.
43. Thomas Williams, his x mark.
44. Little Kah-noos-ty, his x mark.
45. De-ah-de-ah, his x mark.
46. Francis Bacon, his x mark.
47. E-kork-se-kits, his x mark.
48. Red Hair, his x mark.
49. Kay-chah-kid-dah-wad-dis, his x mark.
50. Kous-nut, his x mark.
51. To-de-kits, his x mark.
52. Hah-win-cheah, his x mark.
53. An-te-ki, his x mark.
54. Jones, his x mark.
55. Hah-dun-ko, his x mark.
56. Amos Batty, his x mark.
57. Chus-in-ing-cut, his x mark.
58. James H. Deere.
59. Red Blanket, his x mark.
60. John Williams, his x mark.
61. Robert Wm. Dunlap.
62. No-cus-son-ah, his x mark.
63. Uts-kee-yer-ce-qor-gee-ne-un, his x mark.
64. Pete Pickard, his x mark.
65. A-un-gee-chi-ad, his x mark.
66. Albert Nahix, his x mark.
67. Wallace Caley, his x mark.
68. Isaac Luther, his x mark.
69. Laurie Dunlap, his x mark.
70. Robert Coffee, his x mark.
71. Jim Dunlap, his x mark.
72. Tin-win, his x mark.
73. Peter Williams.
74. George Reynolds, his x mark.
75. Chah-a-bun-ah, his x mark.
76. Bun-jo, his x mark.
77. Ne-ous, his x mark.
78. Hos-te-yah, his x mark.
79. Ods-ke-dy, his x mark.
80. Tid-dy-kits, his x mark.
81. John Beaver, his x mark.
82. Long Soldier, his x mark.
83. Kor-widdy-he-os, his x mark.
84. Ka-wid-dis, his x mark.
85. Enoch, his x mark.
86. John Thomas, his x mark.
87. George Washington, his x mark.
88. John H. Wolf.
89. Alfred Standing, his x mark.
90. Julian, his x mark.
91. Uk-kan-hay-dick, his x mark.
92. Nou-tcha, his x mark.
93. Tas-so-ue, his x mark.
94. Joe Edmund, his x mark.
95. Ti-yune-ah, his x mark.
96. Sam Slick, his x mark.
97. Te-one-hit, his x mark.
98. John Steveson, his x mark.
99. Ah-dick, his x mark.
100. Kiowa, his x mark.
101. W. C. West.
102. Long Horn, his x mark.
103. Jacob Wild Cat, his x mark.
104. Medicine Man, his x mark.
105. H. P. Pruner.
106. Suck-se-ah, his x mark.
107. Uts-ske-ah-skun-ah-e-chuck, his x mark.
108. Kosy-hos-te-ah-dah-dane, his x mark.
109. Uts-suts-ka-kid-ded, his x mark.
110. Ser-ko-no, his x mark.
111. Tos-che, his x mark.
112. Koit, his x mark.
113. George Stevensons, his x mark.
114. Pawnee Jack, his x mark.
115. Thomas Waster, his x mark.
116. Philip Phillips, his x mark.
117. Howard Kino, his x mark.
118. Wits, his x mark.
119. Ets-kaw-wid-ah-de-kuk-ausud-as, his x mark.
120. Che-was-took, his x mark.
121. Big Tree, his x mark.
122. Charlie Caddo, his x mark.
123. De-as-suck-ke-ah, his x mark.
124. Tom Shermamy, his x mark.
125. He-we-quanh, his x mark.
126. Willie Waco, his x mark.
127. Billy, his x mark.
128. Kid-dah-waddy, his x mark.
129. Frank Caddo, his x mark.
130. Joshua Long-hat, his x mark.
131. Fish, his x mark.
132. Billy Wilson, his x mark.
133. Harry Pickard, his x mark.
134. Horace Everett, his x mark.
135. Bullet, his x mark.
136. Tut-se-os, his x mark.
137. Te-one-now, his x mark.
138. J. J. Sturm.
139. Red Hair, his x mark.
140. Cyla Fish, his x mark.
141. Dokish, his x mark.
142. Willie Edwards.
143. Joseph Gibson, his x mark.
144. Wahquitzuma.
145. Cap, his x mark.
146. Gah-a-de-ty, his x mark.
147. Little Button, his x mark.
148. Caddo Jumbo, his x mark.
149. Johnson Parton, his x mark.
150. Joe Jewell, his x mark.
151. Choctaw, his x mark.
152. Frank Johnson, his x mark.
153. Sam Houston, his x mark.
154. Sam Pruner, his x mark.
155. Squirrel, his x mark.

We, Cora West and Robert Dunlap, do certify respectively, that in making the annexed and foregoing contract by and between the United States and the Wichita and affiliated bands of Indians, in the Indian Territory, who speak separate languages, we were the chosen interpreters of said Indians; that the terms of said contract were fully interpreted by us to said Indians at and before the time of signing the same, and they made to understand said contract and agreement; that said con-

tract was duly signed and executed by the persons whose names are subscribed thereto in our presence; that said subscribers are male adult members of said bands of Indians, and that we are also members of said bands of Indians.

Given under our hands at Anadarko, in said Indian Territory, this 5th day of June, A. D. 1891.

CORA WEST,
ROBERT WM. DUNLAP.

—
KIOWA, COMANCHE, AND WICHITA INDIAN AGENCY, IND. T.,
June 5, 1891.

I, the undersigned, United States Indian agent at the above-named agency, hereby certify, that from a careful examination of the books of said agency, fortified by all other means of information at hand, there are two hundred and twenty-seven, and no more, males above the age of eighteen years in the Wichita and affiliated bands of Indians in the Indian Territory.

Witness my hand and the seal of said agency the day and year aforesaid.

CHAS. E. ADAMS,
U. S. Indian Agent.

—
A BILL to ratify and confirm an agreement with the Wichita and affiliated bands of Indians in Oklahoma Territory, and to make appropriations for carrying the same into effect.

Whereas David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, duly appointed commissioners on the part of the United States, did on the fourth day of June, eighteen hundred and ninety-one, conclude an agreement with the Wichita and affiliated bands of Indians in Oklahoma Territory, formerly a part of the Indian Territory, which said agreement is as follows:

Articles of agreement made and entered into at Anadarko, in the Indian Territory, on the 4th day of June, A. D. 1891, by and between David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, commissioners on the part of the United States, and the Wichita and affiliated bands of Indians in the Indian Territory.

ARTICLE I.

The said Wichita and affiliated bands of Indians in the Indian Territory hereby cede, convey, transfer, relinquish forever and absolutely, without any reservation whatever, all their claim, title, and interest, of every kind and character, in and to the lands embraced in the following described tract of country in the Indian Territory, to wit:

Commencing at a point in the middle of the main channel of the Washita River, where the ninety-eighth meridian of west longitude crosses the same, thence up the middle of the main channel of said river to the line of $98^{\circ} 40'$ west longitude, thence on said line of $98^{\circ} 40'$ due north to the middle of the channel of the main Canadian River, thence down the middle of said main Canadian River to where it crosses the ninety-eighth meridian; thence due south to the place of beginning.

ARTICLE II.

In consideration of the cession recited in the foregoing article the United States agrees that out of said tract of country there shall be allotted to each and every member of said Wichita and affiliated bands of Indians in the Indian Territory, native and adopted, one hundred and sixty acres of land, in the manner and form as follows:

Said tract of country shall be, by the United States, classified into grazing and grain-growing land, and when so classified each of said Indians shall be required to take at least one-half in area of his or her allotment in grazing land, subject to the foregoing and other restrictions hereinafter recited. Each and every member of said Wichita and affiliated bands of Indians in the Indian Territory over the age of eighteen years, shall have the right to select for himself or herself one hundred and sixty acres of land, to be held and owned in severalty, but to conform to legal surveys in boundary as nearly as practicable; and that the father, or if he be dead the mother (if members of said tribe or bands of Indians), shall have the right to select a like amount of land, under the same restrictions, for each of his or her children under the age of eighteen years; and that the Commissioner of Indian Affairs, or some one appointed by him for the purpose, shall select a like amount of land, under the same restrictions, for each orphan child belonging to said tribe or bands of Indians under the age of eighteen years.

It is hereby further expressly agreed that no person shall have the right to make his or her selection of land in any part of said tract of country that is now used or occupied, or that has been or may hereafter be set apart for military, agency, school, school farm, religious, town site, or other public uses, or in sections sixteen (16) and thirty-six (36) in each Congressional township, except, in cases where any member of said Wichita and affiliated bands of Indians has heretofore made improvements upon and now occupies and uses a part of said sections sixteen (16) and thirty-six (36), such Indian may make his or her selection, according to the legal subdivisions, so as to include his or her improvements. It is further agreed that wherever in said tract of country any one of said Indians has made improvements and now uses and occupies the land embracing such improvements, such Indian shall have the undisputed right to make his or her selection, to conform to legal subdivisions, however, so as to include such improvements without reference to the classification of land hereinbefore recited.

ARTICLE III.

All allotments hereunder shall be selected within ninety days from the ratification of this agreement by Congress of the United States; provided, the Secretary of the Interior, in his discretion, may extend the time for making such selection; and should any Indian entitled to allotments hereunder fail or refuse to make his or her selection of land in such time, then the allotting agent in charge of the work of making such allotments shall, within the next thirty (30) days after said time make allotments to such Indians, which shall have the same force and effect as if the selections were made by the Indians themselves.

ARTICLE IV.

When said allotments of land shall have been selected and taken as aforesaid, and approved by the Secretary of the Interior, the titles thereto shall be held in trust for the allottees respectively, for a period of twenty-five (25) years, in the manner and to the extent provided for in the act of Congress entitled "An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes." Approved February 8, 1887. And at the expiration of twenty-five (25) years the title thereto shall be conveyed in fee simple to the allottees, or their heirs, free from all incumbrances.

ARTICLE V.

In addition to the allotments above provided for, and the other benefits to be received under the preceding articles, said Wichita and affiliated bands of Indians claim and insist that further compensation, in money, should be made to them by the United States, for their possessory right in and to the lands above described in excess of so much thereof as may be required for their said allotments. Therefore it is further agreed that the question as to what sum of money, if any, shall be paid to said Indians for such surplus lands shall be submitted to the Congress of the United States, the decision of Congress thereon to be final and binding upon said Indians; provided, if any sum of money shall be allowed by Congress for surplus lands, it shall be subject to a reduction for each allotment of land that may be taken in excess of one thousand and sixty (1,060) at that price per acre, if any, that may be allowed by Congress.

ARTICLE VI.

It is further agreed that there shall be reserved to said Indians the right to prefer against the United States any and every claim that they may believe they have the right to prefer, save, and except any claim to the tract of country described in the first article of this agreement.

ARTICLE VII.

It is hereby further agreed that wherever in this reservation any religious society or other organization is now occupying any portion of said reservation for religious or educational work among the Indians, the land so occupied may be allotted and confirmed to such society or organization; not, however, to exceed one hundred and sixty (160) acres of land to any one society or organization so long as the same shall be so occupied and used, and such land shall not be subject to homestead entry.

ARTICLE VIII.

This agreement shall have effect whenever it shall be ratified by the Congress of the United States.

In witness whereof, the said commissioners on the part of the United States have hereunto set their hands, and the undersigned members of the said Wichita and affiliated bands of Indians have set their hands, the day and year first above written.

DAVID H. JEROME,
ALFRED M. WILSON,
WARREN G. SAYRE,
U. S. Commissioners.

1. Tso-di-ar-co, his x mark.
2. Niastor, his x mark.
3. Ke-wits-id-dee, his x mark.
4. Towaconie Jim, his x mark.
5. Kaw-wid-dy-huntis, his x mark.
6. Laurie Tatum, his x mark.
7. Caddo Jack, his mark.
8. White Bread, his x mark.
9. Kah-noos-ty, his x mark.
10. Bull Wilson, his x mark.
11. Jack Harry, his mark.
12. Jim Bobb, his x mark.
13. Kah-de-wah, his x mark.
14. Chi-ox-se-os, his x mark.
15. Tuddy-hin-a-dow-nos, his x mark.
16. John Inkanish, his x mark.
17. Sargeant Tom, his x mark.
18. Enoch Hoag, his x mark.
19. Bob Penn, his x mark.
20. George Parton, his x mark.
21. Frank Williams, his x mark.
22. Joe Bry, his x mark.
23. Charlie Key, his x mark.
24. Sah-be-dum-ko, his x mark.
25. Sam Parton, his x mark.
26. Kor-hake-us-cor, his x mark.
27. Hose-quas-te-i-a-ke-ah, his x mark.
28. Keechi Sam, his x mark.
29. Jonathon Richards, his x mark.
30. Shanklin, his x mark.
31. Cho-cof-py, his x mark.
32. Johnson, his x mark.
33. Wates-koke, his x mark.
34. Es-kay-wicks, his x mark.
35. Skaw-ace-er, his x mark.
36. Joe Pooler, his x mark.
37. Sam Hazen, his x mark.
38. Charlie, his x mark.
39. Frank Bigman, his x mark.
40. Down-in, his x mark.
41. Martin Luther, his x mark.
42. Little Dutchman, his x mark.
43. Thomas Williams, his x mark.
44. Little Kah-noos-ty, his x mark.
45. De-ah-de-ah, his x mark.
46. Francis Bacon, his x mark.
47. E-krook-se-kits, his x mark.
48. Red Hair, his x mark.
49. Kay-chah-kid-dah-wad-dis, his x mark.
50. Kous-nut, his x mark.
51. To-de-kits, his x mark.
52. Hah-win-cheah, his x mark.
53. An-te-ki, his x mark.
54. Jones, his x mark.
55. Hah-dun-ko, his x mark.
56. Amos Batty, his x mark.
57. Chus-in-ing-cut, his x mark.
58. James H. Deere.
59. Red Blanket, his x mark.
60. John Williams, his mark.
61. Robert Wm. Dunlap.
62. No-cus-son-ah, his x mark.
63. Uts-kee-ye-ge-gor-gee-ne-un, his x mark.
64. Pete Pickard, his x mark.
65. A-un-gee-chi-ad, his x mark.
66. Albert Nahix, his x mark.
67. Wallace Caley, his x mark.
68. Isaac Luther, his x mark.
69. Laurie Dunlap, his x mark.
70. Robert Coffee, his x mark.
71. Jim Dunlap, his x mark.
72. Tin-win, his x mark.
73. Peter Williams.
74. George Reynolds, his x mark.
75. Chah-a-bun-ah, his x mark.
76. Bun-jo, his x mark.
77. Ne-ous, his x mark.
78. Hos-te-yah, his x mark.
79. Ods-ke-dy, his x mark.
80. Tid-dy-kits, his x mark.
81. John Beaver, his x mark.
82. Long Solider, his x mark.
83. Kor-widdy-he-os, his x mark.
84. Ka-wid-dis, his x mark.
85. Enoch, his x mark.
86. John Thomas, his x mark.
87. George Washington, his x mark.
88. John H. Wolf.
89. Alferd Standing, his x mark.
90. Julian, his x mark.
91. Uk-kan-hay-dick, his x mark.
92. Nou-tcha, his x mark.
93. Tas-so-ue, his x mark.
94. Joe Edmund, his x mark.
95. Ti-yune-ah, his x mark.
96. Sam Slick, his x mark.
97. Te-one-hit, his x mark.
98. John Steveson, his x mark.
99. Ah-dick, his x mark.
100. Kiowa, his x mark.
101. W. C. West.
102. Long Horn, his x mark.
103. Jacob Wild Cat, his x mark.
104. Medicine Man, his x mark.
105. H. P. Pruner.
106. Suck-se-ah, his x mark.
107. Uts-ske-ah-skun-ah-e-chuck, his x mark.
108. Kosy-hos-te-ah-dah-dane, his x mark.
109. Uts-suts-ka-kid-did, his x mark.
110. Ser-ko-no, his x mark.

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|---|----------------------------------|
| 111. Tos-che, his x mark. | 133. Harry Pickard, his x mark. |
| 112. Koit, his x mark. | 134. Horace Everett, his x mark. |
| 113. George Stevensons, his x mark. | 135. Bullet, his x mark. |
| 114. Pawnee Jack, his x mark. | 136. Tut-se-os, his x mark. |
| 115. Thomas Waster, his x mark. | 137. Te-one-now, his x mark. |
| 116. Philip Phillips, his x mark. | 138. J. J. Sturm. |
| 117. Howard Kino, his x mark. | 139. Red Hair, his x mark. |
| 118. Wits, his x mark. | 140. Cyla Fish, his x mark. |
| 119. Ets-kaw-wid-ah-de-kuk-ansud-as,
his x mark. | 141. Dokish, his x mark. |
| 120. Che-was-tock, his x mark. | 142. Willie Edwards. |
| 121. Big Tree, his x mark. | 143. Joseph Gibson, his x mark. |
| 122. Charlie Caddo, his x mark. | 144. Wahquitzuma. |
| 123. De-as-suck-ke-ah, his x mark. | 145. Cap, his x mark. |
| 124. Tom Shemmany, his x mark. | 146. Gah-a-de-ty, his x mark. |
| 125. He-we-quanh, his x mark. | 147. Little Button, his x mark. |
| 126. Willie Waco, his x mark. | 148. Caddo Jumbo, his x mark. |
| 127. Billy, his x mark. | 149. Johnson Parton, his x mark. |
| 128. Kid-dah-waddy, his x mark. | 150. Joe Jewell, his x mark. |
| 129. Frank Caddo, his x mark. | 151. Choctaw, his x mark. |
| 130. Joshua Long Hat, his x mark. | 152. Frank Johnson, his x mark. |
| 131. Fish, his x mark. | 143. Sam Houston, his x mark. |
| 132. Billy Wilson, his x mark. | 154. Sam Pruner, his x mark. |
| | 155. Squirrel, his x mark. |

We, Cora West and Robert Dunlap, do certify, respectively, that in making the annexed and foregoing contract by and between the United States and the Wichita and affiliated bands of Indians, in the Indian Territory, who speak separate languages, we were the chosen interpreters of said Indians; that the terms of said contract were fully interpreted by us to said Indians at and before the time of signing the same and they made to understand said contract and agreement; that said contract was duly signed and executed by the persons whose names are subscribed thereto in our presence; that said subscribers are male adult members of said bands of Indians, and that we are also members of said bands of Indians.

Give under our hands at Anadarko, in said Indian Territory, this 5th day of June, A. D. 1891.

CORA WEST.
ROBERT WM. DUNLAP.

KIOWA, COMANCHE, AND WICHITA INDIAN AGENCY, IND. T.,
June 5, 1891.

I, the undersigned, United States Indian agent at the above-named agency, hereby certify that from a careful examination of the books of said agency, fortified by all other means of information at hand, there are two hundred and twenty-seven, and no more, males above the age of eighteen years in the Wichita and affiliated bands of Indians in the Indian Territory.

Witness my hand and the seal of said agency the day and year aforesaid.

CHAS. E. ADAMS,
U. S. Indian Agent.

Therefore,

Be it enacted by the Senate and House of Representatives in Congress assembled, That said agreement be, and the same hereby is, accepted, ratified, and confirmed.

SEC. 2. That the said Wichita and affiliated bands of Indians be allowed as compensation for the cession of the lands described in article one of the foregoing agreement, the sum of two hundred and eighty-six thousand dollars, subject to such reduction as may be found necessary under article five of the said agreement, being at the rate (approximately) of fifty cents per acre for so much of said land as will not be required for allotment to the Indians as provided in the foregoing agreement, which sum is hereby appropriated out of any moneys in the Treasury not otherwise appropriated; fifty-three thousand dollars to be paid to said Indians per capita upon the completion and approval of the allotments authorized in said agreement; the remainder, two hundred and thirty-three thousand dollars, to be retained in the Treasury of the United States and to bear interest at the rate of five per centum per annum, such interest to be expended annually for the benefit of said Indians in the discretion of the Commissioner of Indian Affairs.

SEC 3. That for the purpose of making the allotments provided for in said agreement, including the pay and expenses of the necessary special agent or agents hereby authorized to be appointed by the President for the purpose, and the necessary resurveys, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of fifteen thousand dollars, or so much thereof as may be necessary.

SEC. 4. That whenever any of the lands acquired by this agreement shall, by operation of law, or proclamation of the President of the United States, be open to settlement, they shall be disposed of under the general provisions of the act of Congress approved May two, eighteen hundred and ninety, entitled "An act to provide a temporary government for the Territory of Oklahoma," and so forth, and also of the act of March three, eighteen hundred and ninety-one, entitled "An act making appropriations for the current and contingent expenses of the Indian Department," and so forth: *Provided, however*, That if any of said lands shall not be entered or disposed of at the expiration of five years after being opened to settlement and entry they shall be sold in tracts of such size as the Secretary of the Interior may direct, at the proper land office of the United States, by the register thereof, at public sale, after due notice, to the highest bidder, at a price not less than one dollar and twenty-five cents per acre.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, December 15, 1891.

SIR: I have the honor to acknowledge the receipt, by your reference of the 9th instant, of a communication from the honorable Commissioner of Indian Affairs and accompanying papers, relative to the agreement of the Cherokee commission with the Wichita and affiliated bands of Indians in the Territory of Oklahoma, for the cession of the reservation or tract of country upon which they reside and claim to own. One of said papers is the draft of a bill prepared by the Commissioner of Indian Affairs to ratify and confirm said agreement, and making appropriation to carry the same into effect.

By said reference you request me to examine the draft of said bill "and make such changes and additions as may be necessary to provide for the disposal of the ceded lands, the reservation of school lands, the purchase of lands by religious societies, the allotments to Indians," etc., as in my opinion may be required.

Article I of said agreement cedes to the United States, absolutely, all title and claim of said Indians to the tract of land occupied by them in said Territory, setting out the specific boundaries thereof.

By article II provision is made for allotting lands in severalty to the members of said band of Indians, native and adopted.

Article III limits the time within which allotments must be made, and provides for allotments to any Indians who shall fail or refuse to select their allotments, as provided in said agreement.

By article IV the titles to the allotments, duly approved, are held in trust, in accordance with the provisions of the general allotment act of February 8, 1887.

Article V declares that the sum to be paid to the Indians for the surplus lands shall be submitted to Congress, and its decision thereon shall be binding upon the Indians, and provides that the sum allowed shall be reduced if the number of allotments exceeds 1,060.

By article VI it was agreed that the Indians might institute a claim against the United States for whatever they believed to be due them, except for the tract ceded by article I of said treaty.

Article VII provides that lands in said reservation, occupied by religious or educational societies for religious or educational work among the Indians, may be allotted to such societies to the extent of 160 acres each, so long as the same shall be occupied and used by them.

Article VIII provides that the agreement shall be effective whenever ratified by the Congress of the United States.

Section 1 of said bill recites the agreement in full, including the signatures of the parties thereto, and provides that the same be "accepted, ratified, and confirmed."

Section 2 appropriates the sum of \$286,000 as compensation for the ceded lands, subject to the reduction that may be required under article V of said agreement, being at the rate of 50 cents per acre for the surplus land, and provides for the payment of a portion thereof to the Indians per capita, and the retention of the balance in the Treasury of the United States at interest at 5 per cent per annum, which interest is to be expended annually.

Section 3 appropriates \$15,000 for making the allotments and surveys required in said agreement. In their report the Cherokee commission states that—

Every acre of this reservation is embraced in the cession made last November to the United States by the Cheyennes and Arapahoes, and is also embraced in the territory described in the Indian appropriation bill of the recent session of Congress, and for which Congress in that bill appropriated to be paid to the Choctaws and Chickasaws \$1.25 per acre.

It is further stated—

There is some very good upland, the Washita Valley and the valleys of some half dozen of the creeks are very good, probably some more than enough to allot to the Indians good land. The greater part by far of the residue of the land is of doubtful value, or no value, for farming purposes, and not useful even for grazing where the holdings are limited to a quarter section.

The Commissioner of Indian Affairs states that this reservation was not included in the lands "for which an appropriation was made by section 15 of the act of March 3, 1891 (26 Stats., 1022)," to the Choctaw and Chickasaw Nation, but their status is the same, and that said nation will probably make application to Congress for payment for these lands. It thus appears that the Choctaw and Chickasaw Nation has not been paid for any claim to the Wichita lands, and that some of the lands may not be valuable for entry under the homestead laws. With reference to the disposition of the surplus lands, it may be remarked that legislation has already been enacted by Congress upon this subject.

By the act of May 2, 1890 (26 Stats., 81), a temporary government was provided for Oklahoma Territory, including said reservation within its limits.

After providing for the officers thereof, and defining their duties (secs. 1 to 17, inclusive), the act (sec. 18) reserves sections 16 and 36 for the public schools, except "when occupied by actual settlers prior to survey thereof," when indemnity or lieu lands are to be duly located for the lands so occupied. The same section also provides (*inter alia*)—

Whenever any of the other lands within the Territory of Oklahoma, now occupied by any Indian tribe, shall by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply: *Provided, however*, That each settler, under and in accordance with the provisions of said homestead laws, shall, before receiving a patent for his homestead, pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than one dollar and twenty-five cents per acre. The rights of honorably discharged soldiers and sailors in the late civil war, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged except

as to such payment. All tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the Territory hereby created shall inure to the use or benefit of any railroad corporation, except the rights of way and land for stations heretofore granted to certain railroad corporations. Nor shall any provision of this act or any act of any officer of the United States, done or performed under the provisions of this act or otherwise, invest any corporation owning or operating any railroad in the Indian Territory, or Territory created by this act, with any land or right to any land in either of said Territories, and this act shall not apply to or affect any land which, upon any condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation.

Section 20 prescribes the procedure relative to the entries of any lands therein, and section 22 prescribes how town sites may be entered in said Territory. Section 23 makes a reservation for public highways around each section. Section 24 declares that entries made for the benefit of others shall be declared void, and fixes the penalty to be inflicted upon the parties to such fraudulent settlements and entries.

Sections 17 and 37 of the act of March 3, 1891 (26 Stats., pp. 1026, 1043), provide that "before any lands in Oklahoma are open to settlement it shall be the duty of the Secretary to divide the same into counties," etc., and provides for the reservation of not to exceed one-half section of said land, to be located near the center of said county, for county seat purposes, to be entered under sections 2387 and 2388, Revised Statutes of the United States.

By virtue of said sections, counties were established by your order dated September 16, 1891, in said Territory, including said reservation designated as county "I," and I see no objection to the addition of a section to said bill providing that the surplus lands shall be disposed of in accordance with the general provisions of law applicable to the Territory of Oklahoma. I am therefore of opinion, and so advise you, that the following section should be added to said bill:

SEC. 4. That whenever any of the lands acquired by this agreement shall by operation of law or proclamation of the President of the United States be open to settlement, they shall be disposed of under the general provisions of the act of Congress approved May second, eighteen hundred and ninety, entitled "An act to provide a temporary government for the Territory of Oklahoma," etc., and also of the act of March three, eighteen hundred and ninety-one, entitled "An act making appropriations for the current and contingent expenses of the Indian Department," etc.: *Provided, however,* That if any of said lands shall not be entered or disposed of at the expiration of five years after being opened to settlement and entry, they shall be sold in tracts of such size as the Secretary of the Interior may direct, at the proper land office of the United States, by the register thereof, at public sale, after due notice, to the highest bidder, at a price not less than one dollar and twenty-five cents per acre.

Very respectfully,

GEO. H. SHIELDS,
Assistant Attorney-General.

THE SECRETARY OF THE INTERIOR.